

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| In re SUNOPTA INC. SECURITIES | : | Master File No. 1:08-cv-00933-PAC |
| LITIGATION | : | |
| | : | <u>CLASS ACTION</u> |
| | : | |
| This Document Relates To: | : | LEAD PLAINTIFFS' REPLY |
| | : | MEMORANDUM IN SUPPORT OF |
| | : | MOTION FOR (1) FINAL APPROVAL OF |
| ALL ACTIONS. | : | CLASS ACTION SETTLEMENT AND |
| | x | PLAN OF ALLOCATION OF |
| | | SETTLEMENT PROCEEDS; AND (2) |
| | | AWARD OF ATTORNEYS' FEES AND |
| | | EXPENSES |

Lead Plaintiffs respectfully submit this reply memorandum in support of their motion for (1) Final Approval of Class Action Settlement and Plan of Allocation of Settlement Proceeds; and (2) Attorneys' Fees and Expenses.

Since Lead Plaintiffs filed their moving papers in support of their motion on April 5, 2010, an additional 526 copies of the Notice of Pendency and Certification of Class Actions, Proposed Settlement and Settlement Approval/Fairness Hearings ("Notice") and Proof of Claim and Release form have been mailed to Class Members. *See* paragraph 3 to the Supplemental Declaration of Carole K. Sylvester Re Mailing of the Notice of Pendency and Certification of Class Actions, Proposed Settlement and Settlement Approval/Fairness Hearings and the Proof of Claim and Release Form, submitted herewith. In total 23,178 Notices and Proof of Claim forms have been mailed to Class Members. *Id.*

Moreover, on or about April 5, 2010, U.S. Class Member Ronda Frenkel filed and served an objection to the proposed settlement. *See* Exhibit A attached hereto. Ms. Frenkel purchased 500 shares of SunOpta common stock during the Class Period. Ms. Frenkel questions whether Lead Plaintiffs considered stock sales by Stephen Bronfman prior to the end of the Class Period. Ms. Frenkel mailed her objection prior to the date on which Lead Plaintiffs filed their motion in support of the Settlement, and so she did not have the benefit of those papers. Nevertheless, those stock sales, in SunOpta's December 2007 Secondary Offering, were investigated by U.S. Lead Plaintiffs' Counsel and referenced in Lead Plaintiffs' complaint. In addition, the sales were a primary focus of the parties' settlement discussions. Defendants maintained that Bronfman and several related entities sold their entire interest in SunOpta through the Secondary Offering with no knowledge that there were material weaknesses with SunOpta's internal controls over financial reporting or that its quarterly financial results were inaccurate or otherwise unreliable. Defendants forcefully argued that

there was no knowledge by anyone at SunOpta in early December 2007 that a restatement would be required, and that Lead Plaintiffs would not uncover any such evidence through discovery. Therefore, establishing this claim would be difficult, and was considered in determining that this Settlement is in the Class's best interests.

It is also important to note that following an extensive notice program, there have been no objections to the proposed Plan of Allocation or to U.S. Lead Plaintiffs' Counsel's fee and expense request.

Finally, on May 3, 2010, the Canadian Court heard the Canadian Class's motion for approval of the Settlement. The Canadian Court took the Settlement under advisement, but indicated that a decision would likely be made prior to the May 17, 2010 Settlement Hearing scheduled before this Court.

This Settlement represents a very good result for the U.S. Class under the circumstances present here. Therefore, the Court should approve the Settlement, the Plan of Allocation, and the fee and expense application.

DATED: May 10, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 10, 2010.

s/ Ellen Gusikoff Stewart

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Mailing Information for a Case 1:08-cv-00933-PAC

Electronic Mail Notice List

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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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In re SunOpta Sec. Litig.
Master File No. 1:08-00933-PAC

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